

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LEONOR CORTES-CALDERON,

Plaintiff,

v.

OPINION AND ORDER

13-cv-868-wmc

THE DIRT DESTROYERS, LLC,

Defendant.

On February 14, 2014, the clerk of court entered default against defendant The Dirt Destroyers, LLC pursuant to Federal Rule of Civil Procedure 55(a). (Dkt. #6.) Before the court is plaintiff Leonor Cortes-Calderon's motion for default judgment against defendant, as well as a brief and declarations in support of her motion. (Dkt. ##7-10.)

Plaintiff is a former employee of The Dirt Destroyers, who alleges that defendant maintained pay practices which violate federal and state law. Specifically, plaintiff alleges, and by virtue of its default, defendant concedes, that defendant failed to pay minimum wage and overtime. *In re Catt*, 368 F.3d 789, 793 (7th Cir. 2004) (explaining where default has been entered against a defendant, the court accepts as true all of the factual allegations in the complaint, except those relating to damages). This order sets forth the court's findings as to damages and directs entry of default judgment consistent with those findings.

In her sworn affidavit, plaintiff states that she was paid \$350 per week for approximately 74 hours per week of work from April 2012 through September 2012.

(Declaration of Leonor Cortes-Calderon ("Cortes-Calderon Decl.") (dkt. #10) ¶¶ 3, 6.) Based on these allegations, plaintiff seeks unpaid wages (both minimum wage and overtime, *see* 29 U.S.C. §§ 207(a), 206(a), in the amount of \$8,057.40. From September 2010 through mid-November 2012, plaintiff avers that she was paid \$400 per week for approximately 74 hours per week of work. (Cortes-Calderon Decl. (dkt. #1) ¶¶ 4, 7.) Based on these allegations, for that period of time, plaintiff seeks \$1,817.06 in unpaid wages. Lastly, for the week of November 18, 2012, plaintiff avers that she was paid \$360 for 48 hours of work, and, therefore seeks \$30 in overtime pay. (*Id.* at ¶ 8.) Over the entire time period, plaintiff seeks \$9,904. Plaintiff also seeks -- and is entitled to -- liquidated damages under the FLSA in an amount equal to her unpaid wages. *See* 29 U.S.C. § 216(b). Accordingly, the court awards damages for unpaid wages, including liquidated damages, in the total amount of \$19,808.92.

Plaintiff also requests \$1,945.00 in attorney's fees which represents a total of 7.7 hours at an average rate of roughly \$250 per hour. (Declaration of David Zoeller, Ex. A (dkt. #9-1) 2-3.) The court finds the amount of time spent on this case and counsel's rate to be reasonable, and awards attorneys fees in the amount requested. *See* 29 U.S.C. § 216(b) ("The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.").

Counsel for plaintiff also requests \$512.19 in out-of-pocket costs in prosecuting this action. (Zoeller Decl., Ex. A (dkt. #9-1) 4.) The court finds the amount of costs

requested reasonable, and awards costs in the amount of \$769.28. *See* 29 U.S.C § 216(b).

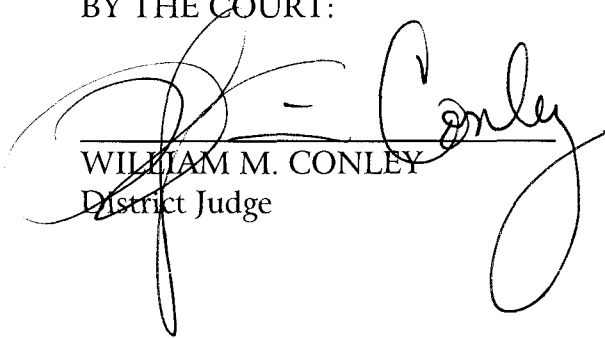
ORDER

IT IS ORDERED that:

- 1) plaintiff Leonor Cortes-Calderon's motion for default judgment against defendant The Dirt Destroyers, LLC is GRANTED;
- 2) and the clerk of the court is directed to enter a default judgment in the total amount of \$22,266.11 against defendant, and close this case.

Entered this 26th day of March, 2014.

BY THE COURT:



WILLIAM M. CONLEY
District Judge